

Appln. No. 09/828,567
Amdt. Dated February 6, 2004
Reply to office action dated November 7, 2003

REMARKS/ARGUMENTS

Claims 4, 11 and 12 remain in this application. Claims 6-10 have been canceled.

Independent Claim 4 has been amended in an attempt to narrow the issues involved in prosecuting the instant application.

As noted in previous communications, the present invention provides an improved board anchor having a screw shaft, a freely revolving anchor section attached to the screw shaft, a re-positioning device for positioning the anchor section in a cross position against the screw shaft from a position parallel with the screw shaft and a threaded attachment ring, the screw shaft screwing into the attachment ring and a formed screw hole in the anchor section.

To anchor a board to a wall, the anchor section is rotated and placed in a parallel position with the screw shaft positioned along a straight line. On one side of the wall, the screw and anchor section are both inserted through the insertion hole in the wall. The anchor section is then rotated toward a cross, or perpendicular, position from its parallel position through the force of a spring when the shaft and anchor pass through the hole, the anchor being stopped in a cross position by a mechanism that comprises protrusions formed on the ends of the attachment ring and shaped holes formed on the anchor section, the shaped holes being aligned to stop the protrusions in a manner to secure the anchor section in the cross position. From the same side of the wall, the screw shaft is then pulled back in the opposite direction to the direction of insertion to place the anchor section flush against the other side of the wall. The board is then placed closely against

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the wall before inserting the screw shaft through a screw hole formed in the board. Finally, a nut is screwed onto the end section of the screw shaft on the board side. The screw is tightened to press the board against the wall, thus anchoring the board to the wall.

As noted above, after the anchor section stops in a cross position to the screw shaft, the screw shaft is screwed into the attachment ring and the screw hole in the anchor section. Since the mechanism has stopped the anchor section in a cross position, the positions of the screw shaft and the screw hole on the anchor section become aligned, thus allowing the screw shaft to easily screw into the anchor section. Since the screw shaft and the anchor section are linked by screw coupling, the device can be used for boards and walls of varied thickness by adjusting the length of the screw shaft through the insertion hole on the wall.

The rejection of claim 4 under 35U.S.C.103(a) as being unpatentable over Newhall (US 1179449) in view of Karitzky (1374924) is traversed for the reasons to follow.

Although Newhall et al (1179449) discloses a toggle bolt, the construction of the toggle bolt differs substantially from that set forth in amended independent claim 4. In particular, Newhall et al does not disclose the equivalent of attachment ring 8 set forth in claim 4, the attachment ring having two important functions. First, attachment ring 8 enables the position of screw shaft 1 and screw hole 9 in anchor section 2 to be aligned making it easier to screw shaft 1 into screw hole 9. Secondly, attachment ring 8 includes protrusions that with the shaped openings formed on the anchor section sides function to

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lock the anchor head into the horizontal position after exiting the rear surface of the mounting wall.

A further feature of the board anchor set forth in claim 4 is that coupling of the screw shaft 1 with the anchor section 2 (when the anchor section is in the horizontal position) increases the anchoring strength and, in addition, allows the screw shaft 1 to be removed if necessary. The Newhall et al toggle bolt has none of the above features.

The examiner characterizes Newhall's nut 5 as a component identical to appellant's attachment ring 8. However, it is clear that Newhall's nut 5 is not structurally or functionally the same as the attachment ring 8. In particular, the Newhall et al toggle bolt is designed such that the head 4 of stem 3 or nut 5 can be mounted within the toggle bolt head 2 interchangeably and, according to the inventor, enables either the nut 5 or head 4 to be left on the exterior of the supported article. In either arrangement, the nut 5 is not adapted to be used as an attachment ring having the features set forth in claim 4.

Karitzky discloses a toggle having a hinge member of various shapes, the invention being directed to having a hinge member which is not permanently secured to the toggle head. Although the hinge members have ends that may be equivalent to protrusions, the function and design of the Karitzky toggle is completely different from what is set forth in applicant's claim 4 and, more importantly, does not suggest that Newhall can be modified to utilize its teachings to make the claim obvious.

The rejection of claims 11 and 12 under 35U.S.C. 103(a) as being unpatentable over Newhall (US 1179449) in view of Karitzky (1374924) and Place (US 2144895) is

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traversed for the reasons to follow.

Since claims 11 and 12 are dependent on claim 4, the reasons set forth hereinabove for the inapplicability of the Newhall '449 and Karitzky references are applicable to claims 11 and 12. Further, dependent claims 11 and 12 set forth the specific features of the attachment ring protrusions and the anchor section shaped openings that enable the attachment ring to both function as a mechanism for stopping the anchor section in the cross position and to align the threaded openings in the attachment ring and the anchor section. The Newhall toggle bolt disclosed in '289 patent is similar to the one set forth in Newhall '449 as discussed hereinabove; Place does not disclose the attachment ring/shaped openings feature, a key aspect of applicant's invention. Thus, these references, when combined in the manner suggested by the examiner, would not disclose the inventive concept claimed by appellant; an attachment ring, when used in conjunction with the anchor section, provides alignment and stop features simply and efficiently.

The Court of Appeals for the Federal Circuit has consistently held, on the question of obviousness under 35 U.S.C. 103, that evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to modify the teaching of the references relied on to reject the claimed invention is necessary. See In re Lee, 61 USPQ2d 1430, 1433 (CAFC 2002); Srbia Neurosciences Inc. v. Cadus Pharmaceutical Corp., 55 USPQ2d1927, 1931 (CAFC 2000).

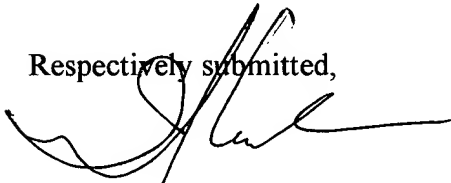
It is believed that the examiner has not established that there is teaching,

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motivation or suggestion that the Newhall '449 reference could be modified by Karitzky to meet applicant's claim 4 without the use of hindsight. Similarly, examiner has not established that there is a teaching, motivation or suggestion that the primary Newhall reference could be modified by the Karitzby, Place and Newhall ('289) references to meet applicant's claims 11 and 12 without the use of hindsight.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case for Claims 4, 11 and 12.

Respectively submitted,

A handwritten signature in black ink, appearing to read 'Irving Keschner', written over the typed name and contact information.

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